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Ref: 8EPR-N

MAR 22 2010

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E. Room 1A
Washington D.C. 20426

Re: FEIS Environmental Impact Statement for the Ruby Pipeline Project CEQ # 20100001
Docket No. CP09-54-000

Dear Ms. Bose:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321, et. seq., and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609, the U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the Final Environmental Impact Statement (Final EIS) prepared by the Federal Energy Regulatory Commission (FERC) for construction and operation of the interstate Ruby pipeline and associated facilities located in Wyoming, Utah, Nevada, and Oregon.

The pipeline and associated facilities proposed and operated by Ruby Pipeline, L.L.C. (Ruby) would add 1.5 million dekatherms per day of natural gas transportation capacity to meet growing demands for natural gas along the Pacific Northwest. The proposed project would involve the construction and operation of approximately 675.2 miles of 42 - inch diameter pipeline and associated aboveground facilities. Associated aboveground facilities include 4 metering stations, 4 communication towers, 10 pig launchers/receivers, 44 main line valves, and 4 new compressors totaling 157,161 horsepower. Construction of the proposed project would disturb approximately 17,520 acres of land. Forty-eight percent of the land affected by construction and operation of the proposed project is privately-owned. Of this disturbance, 10,040 acres would be restored and allowed to revert to former use.

The Final EIS considers a number of various alternatives including: no action, postponed action, alternative energy sources, energy conservation, system alternatives, route variations, and aboveground facility site alternatives. The majority of these alternatives were dismissed from further comprehensive analysis with the exception of 3 route alternatives and 5 route realignments. Following a broad analysis in the Final EIS, these three major route alternatives have been incorporated into the project. The only action alternative to be analyzed in detail was the proposed action with 15 FERC-recommended minor route changes to avoid environmentally-sensitive resources.

Generally, EPA encourages development of proposed pipelines and transmission lines in existing corridors. As FERC notes in the Final EIS, the Sheldon and Black Rock route alternatives, which were identified by resource agencies, each have reduced impacts on high quality greater sage-grouse habitat, as well as Northern Paiute tribal resources, than the proposed alternative. However, the Fish and Wildlife Service (FWS) would not concur with a right-of-way grant through its Sheldon Wildlife Refuge; thus, the Sheldon route alternative was not incorporated into the preferred alternative routing. The overall footprint of the Black Rock alternative would have created a larger environmental footprint that would not significantly outweigh other benefits to be gained. Reduction in impacts on greater sage-grouse leks, mule deer habitat, and perennial streams would not necessarily confer an environmental advantage over the proposed route. The Black Rock route disadvantages included larger impacts on pygmy rabbit habitat, pronghorn crucial winter habitat, wetlands, national historic trails, recreation, and air quality.

In completing our review, EPA is satisfied that its three primary concerns identified at the draft EIS stage have been adequately addressed (i.e. pipeline crossings at perennial waters; stream depletion from appropriation for hydrostatic pipeline testing; and avoidance or compensatory mitigation for loss of wetland functions). EPA agrees that the proposed route is the least environmentally damaging alternative under the legal constraints presented by the NWR's statutory mandate to maintain biological integrity and diversity within the Sheldon Wildlife Refuge. At the same time, EPA also acknowledges that Summit Lake Paiute tribal resource issues may be compromised under the proposed route that lies within the 2-mile wide corridor between the northern boundary of the Summit Lake Paiute Reservation and the southern boundary of the Sheldon Wildlife Refuge.

Water crossings

The proposed project would cross 83 waterbodies which would be considered sensitive because of the presence of special status species. The greatest potential impact on surface waters would result from sedimentation and the Final EIS includes a number of mitigation measures to address these potential impacts including timing limitations to avoid crossing streams during fish migration and spawning seasons.

The Final EIS includes a more detailed and robust impact analysis of all feasible waterbody crossing methods such as horizontal directional drilling (HDD) and dry-ditch crossing methods. Open-cut crossing methods would only be used where special status species are not present. In addition, where open-cut is used, mitigation measures would be implemented by providing 50-foot set-backs for temporary extra workspace which will preserve riparian vegetation.

Hydrostatic Pipeline Testing

The Final EIS has reduced the need for water withdrawals for verifying the integrity of the pipeline under pressure and for fugitive dust suppression from 327 million gallons to 84 million gallons. Water would be withdrawn from eight water sources (Hams Fork River, South

Side Ditch, Little Muddy Creek, Ryckman Creek, Woodruff Creek, Little Bear River East Fork, Bear River South Fork, and Dry Creek) known to contain special status species. The Final EIS has a complete analysis addressing mitigation measures for the potential adverse impacts from this amount of potential water withdrawals and its effects on critical habitat for bonytail chub, Colorado pikeminnow, razorback sucker, and humpback chub within the Colorado River system. The revised Hydrostatic Test Plan in the Final EIS proposes appropriation of water from these particular waterbodies during the seasonal low flow period (August – March) that does not exceed 10% of the base flow. This plan to reduce the amounts of water taken would not result in adverse impacts to aquatic or sensitive species or harm downstream water rights.

The Final EIS acknowledges FERC's determination that the proposed project would not adversely impact federally listed species, adversely modify designated critical habitat, threaten the viability of BLM, USFS, or state-listed species, or produce any direct or indirect effects that would be contrary to a cooperating agency's conservation needs. The Final EIS recommends that all initiated Biological Assessments be completed in preparation for formal ESA Section 7 consultation with FWS. In addition, ESA Conservation Action Plans (Appendix M) have been prepared to go beyond the reasonable and prudent mitigation measures that may be imposed during the Section 7 consultation to provide further assistance with conservation and recovery of these species.

Wetlands

As noted in the Final EIS, wetlands can be a source of substantial biodiversity and serve a variety of functions including wildlife habitat, naturally improving water quality and providing flood control. Construction of the proposed pipeline route would disturb 148 wetlands over 376 acres, most of which are palustrine emergent (*i.e.*, herbaceous) wetland. Ruby would minimize impacts on all wetlands by complying with the U.S. Army Corps of Engineers Section 404 permit conditions and implementing a series of compensatory mitigation measures. The Final EIS incorporates Wetland and Waterbody Construction and Mitigation Procedures (Appendix F) containing wetland mitigation measures that are designed to minimize the overall area and duration of wetland disturbance, reduce the amount of wetland soil disturbance, and enhance wetland restoration following construction.

The Final EIS includes a draft preliminary Wetland Mitigation Plan (Appendix S) to document the status of consultation with the U.S. Army Corps of Engineers. The Plan proposes that wetland restoration be monitored for a minimum of 5 years after construction. EPA recommends the wetlands monitoring should also include inspection and monitoring for invasive species. The Final EIS provides additional discussion and explanation on the FERC decision not to allow temporary extra workspaces right up to the edge and through wetland crossings without case-by-case, site-specific justification for doing so.

Following submittal of our DEIS comments, EPA engaged in several discussions with the Summit Lake Paiute Tribe concerning potential wetland impacts of the proposed project. We understand that FERC has granted the Tribe intervenor status in this matter. We appreciate that the FEIS discusses the major issues raised by the Tribe and we urge FERC and Ruby to continue

their dialogue with the Tribe about their continuing concerns.

If you have any questions regarding our comments, please contact me at 303-312-6004 or James Hanley of my staff at 303-312-6725.

Sincerely,

Larry Svoboda
Director, NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation

Enclosure

cc: FERC Gas Branch 1, PJ-11.1